

## **PROFESSIONAL CONDUCT COMPLAINTS PROCEDURE**

### **Regulation 9 pursuant to Bye-law 11**

- .1 Procedures for the investigation of complaints against members of the Institute and of the Institute of Consulting (IC) are administered by the Complaints and Investigations Committee ("the CIC"), a Committee of the Board.
- .2 Investigation of complaints is undertaken by the Investigation Panel ("the Panel"), a sub-group of the CIC, comprising not less than eight members who comply with criteria established by the CIC from time to time and who are appointed by the CIC. At least two members of the Panel will be members of the IC. The Chairman of the Panel is appointed by the CIC for a term of two years and is eligible for re-appointment for two further terms of two years, up to a maximum of six consecutive years. Members of the CIC cannot also be members of the Panel. The CIC has authority to modify the length of term of office of the Chairman and members of the IP, as required to maintain an effective IP.
- .3 Information that comes to the Institute's notice concerning allegedly unsatisfactory professional conduct by a member is referred to the Institute Secretary. The complaint may relate to the individual's membership of the Institute or of the IC, or both. A complaint against a member may also be made by the Institute or by the IC alleging breach of the Code. Such complaints are lodged on the respective Institute's behalf by the Institute Secretary.
- .4 Cases involving false claims to membership are dealt with by the Institute Secretary without referral to the CIC. In all other cases, the Institute Secretary ensures that a complaint is placed in writing, that it contains a sufficiently comprehensive outline of the matter and, as far as possible, cross-references the complaint to a clause or clauses in the Code of Conduct and Practice. The Chairman of the CIC is then made aware that information has been received concerning the conduct of a member which may represent a breach of the Code.
- .5 After considering the information in the complaint, the Chairman of the CIC requests the Institute Secretary to refer the matter to the remaining members of the CIC. CIC members are usually informed of a complaint within a maximum of five working days following its receipt. At the same time as informing the CIC, the Institute Secretary informs the member who is the subject of the complaint that a complaint has been received and has been passed to the CIC.
- .6 If the member against whom the complaint has been made was the subject, in the past three years, of a previously investigated complaint, found not to be vexatious, and which proceeded to investigation, the Institute Secretary will instruct the CIC, the investigators and, if a hearing takes place, the members of the Hearing Panel, that no attention is to be paid to the earlier complaint against the member until such time as the outcome of any hearing into the member's conduct on this occasion is determined. Any complaints investigated which date back more than three years are considered 'spent'.
- .7 The options available to the CIC in considering the complaint are to (a) dismiss the complaint on the basis that it is vexatious or represents an abuse of process, (b) place the complaint on hold, on the basis that it is subject to pending civil or criminal action in the Court or is being investigated by another professional body, (in which case the complaint is reconsidered on completion of such action), or (c) refer the complaint for detailed investigation pursuant to subparagraph .8 below. The complainant and the member are informed accordingly.
- .8 In considering the options set out in .7 and in deciding such advice as may be appropriate to issue as part of an investigation, the CIC should take account of (a) the extent of evidence already available and what more may need to be sought; (b) the timeliness and history of the complaint; (c) the possibility of the involvement of an employing organisation of either the complainant or member; (d) the involvement of other professional bodies; and (e) the key

areas on which the investigation may best be focused. Such legal advice as is considered necessary, to inform and assist these deliberations, will be available through the Institute Secretary.

- .9 In the event of a decision by the CIC to investigate further, the Institute Secretary, in consultation with the Chairman of the Panel, taking due note of any guidance issued by the CIC, refers the complaint to two members of the Panel for full investigation. In each complaint there will be a Lead Investigator and Support Investigator. The communication to the members of the Panel also includes notification of any key issues or questions that the CIC wishes to see referred to the complainant and/or the member subject to complaint. In the case of a complaint relating to a member of the IC, where practicable the Lead Investigator will be a member of the IC. At the same time as the two members of the Panel are appointed, the Institute Secretary informs the complainant and the member subject to complaint that an investigation is to take place and outlines the procedure being followed. The Chairman of the Panel will keep in close contact with the appointed investigators and provide them with any further guidance as proves necessary, informing the Chairman of the CIC and the Institute Secretary accordingly.
- .10 The investigation takes the form of a full assessment of the complaint. Supporting and substantiated evidence is sought in writing or orally, as appropriate, from the complainant, the member subject to complaint or any other appropriate source. Following completion of an investigation, a report ("the Investigation Report") is compiled for the CIC on the basis of the evidence collected and in a format agreed by the CIC, recommending either that the complaint be referred to a disciplinary hearing, giving reasons, or that the complaint be dismissed. The report is passed to the CIC once the Chairman of the Panel is satisfied that it meets the CIC's requirements. A copy of the Investigation Report is only provided to the parties in the event that a disciplinary hearing is convened.
- .11 Within 10 days of receipt of the Investigation Report by the CIC, the Institute Secretary is instructed by the CIC to write to the member subject to complaint, to confirm either that the complaint has been dismissed or that the complaint will be the subject of a disciplinary hearing. When a complaint is the subject of a disciplinary hearing, the Institute Secretary:
  - .1 with at least 28 days' notice, informs the member subject to complaint and the complainant of the date, time and place of the hearing, their rights under this Regulation and the procedure to be followed at the hearing;
  - .2 sends the member and complainant a copy of the Investigation Report;
  - .3 calls for confirmation within the next 14 days from the member subject to complaint and the complainant of their intention to appear at the hearing and, if so, whether only in person or accompanied by one other individual in each case;
  - .4 advises the member subject to complaint that the hearing will proceed, whether or not the member chooses to attend;
  - .5 requires the member subject to complaint to submit to the Chairman of the CIC and the Chairman of the Panel, in the case of a complaint made by the Institute or the IC, and to the Chairman of the CIC and the complainant in the case of a complaint made by another individual, not less than 14 days before the hearing a list of the documents on which the member intends to rely when presenting the case, together with copies of the documents;
  - .6 requires the complainant or the Chairman of the Panel (as appropriate) to submit to the Chairman of the CIC and the member subject to complaint not less than 14 days before the hearing a list of the documents upon which the complainant or the Chairman of the Panel (as appropriate) intends to rely when presenting the case, together with copies of the documents.
- .12 Four members of the CIC are invited to form a disciplinary hearing panel ("the Hearing Panel") to consider a complaint. One Panel member is appointed to chair the hearing. Where the member subject to complaint has, within three years of the date of the hearing panel now convened, been the subject of a hearing panel under this Regulation, the Institute

Secretary will endeavour to ensure that no hearing panel members for the new complaint have had any involvement in any earlier panel or investigation. At the commencement of the hearing, the complaint is presented by the complainant, or by a member of the CIC in the case of a complaint made by or on behalf of the Institute. The investigation report is then presented. A submission is then heard from the member subject to complaint, if present.

- .13 The member subject to complaint and the complainant or the member of the CIC (as appropriate) are entitled to:
  - .1 call witnesses, at the discretion of the Chairman of the Hearing Panel;
  - .2 appear in person at the hearing and to be accompanied by one other person at their own expense, but who will not be permitted to take any part in the proceedings other than to provide personal support and advice to the member;
  - .3 bring forward evidence and cross-examine witnesses;
  - .4 nominate a person to attend and generally exercise their rights if unable to be present for any reason, with the proviso that an attendee who is legally qualified may not act as an advocate or in any other legal capacity.
  
- .14 On the conclusion of the hearing, the Hearing Panel deliberates in private and decides whether the alleged misconduct has been proven. If proven, the Hearing Panel is entitled at this stage to take into account any misconduct which resulted in a sanction from a hearing panel held within the previous three years. The Hearing Panel then agrees on a sanction to be imposed, which will be one, or a combination of more than one, of the sanctions set out below:
  - .1 impose a written warning;
  - .2 seek a written undertaking from the member as to future conduct, within a stated period of time not exceeding 28 days;
  - .3 require the member to undertake, and pay the costs of, appropriate training on specific and validated courses within a specific period of time and to complete the said training programme to the satisfaction of the Institute;
  - .4 suspend the member from membership of the Institute or of the IC, or both, for a specific period, not exceeding 12 months;
  - .5 invite the member to resign from the Institute or from the IC, or both, within a stated period of time not exceeding 28 days;
  - .6 recommend to the Board the removal of the member from membership of the Institute or of the IC, or both, as appropriate.
  
- .15 The decision of the Hearing Panel, together with reasons, is confirmed in writing to the CIC, the member subject to the complaint and the complainant or the member of the CIC (as appropriate) by the Institute Secretary. The member may appeal on the basis that (a) the sanction(s) is/are an incorrect reflection of the weight of evidence in the case, (b) the sanction(s) is/are disproportionate to the breach of the Code or (c) a procedural error has had a material effect on the outcome. To exercise this right of appeal, the member must make a request in writing to the Institute Secretary within 21 days of receipt of the decision of the Hearing Panel.
  
- .16 If the member fails to comply with the sanction(s) imposed by the Hearing Panel as set out in sub-paragraph .14 above, the Hearing Panel may impose some other sanction and, in the case of a failure to comply with the sanctions imposed pursuant to sub-paragraphs .14.2 and .14.5, the CIC shall recommend to the Board the removal of the member from membership of the Institute or of the IC, or both.
  
- .17 If the member subject to complaint lodges an appeal, the President of the Institute, or a nominated representative, is requested by the CIC to appoint a Chairman and three other members to form an Appeal Committee, none of whom must have had any prior involvement in considering the complaint in question.
  
- .18 The member who has submitted the appeal ("the appellant") is informed of the establishment of the Appeal Committee, the names of its members and the date of its meeting at least 21 days' beforehand. At this stage, the Institute Secretary will take note of any advice from the Hearing Panel concerning evidence not presented to it but which, in its opinion, may be

germane to an appeal, and will endeavour to obtain such evidence. Any further evidence obtained in this way will be submitted to the appellant and to the Appeal Committee.

- .19 The quorum at meetings of the Appeal Committee is three members, and a decision on the case is taken on the basis of a majority vote. In the event of an equality of votes, the Chairman of the Committee has a second or casting vote.
- .20 The appellant has the right to attend the meeting of the Appeal Committee in person and to be accompanied to the meeting by one other person (who is not allowed to be present in a legal capacity), to provide support and advice, at the appellant's expense. If unable to attend the meeting for any reason, the appellant may:
  - .1 make a written submission to the Appeal Committee;
  - .2 nominate a person to attend and generally exercise rights on the appellant's behalf, with the proviso that an attendee who is legally qualified may not act as an advocate or in any other legal capacity.
- .21 The Appeal Committee considers the appeal in the light of:
  - .1 the evidence presented at the hearing;
  - .2 any representations made at the hearing;
  - .3 any representations which the appellant may make to the Appeal Committee;thereby considering whether the Hearing improperly took account of some matter, or failed to take into account a relevant matter, or whether its decision was perverse. This principle does not prevent the Appeal Committee from looking at any new evidence or proceeding by way of a full hearing, if in its absolute and sole discretion it considers it essential so to do.
- .22 On the conclusion of the appeal hearing, the Appeal Committee deliberates in private. The outcome of the appeal is reported in writing to the CIC.
- .23 In a case where the agreed sanction is exclusion from membership of the Institute or of the IC, or both, where:
  - .1 the member has not lodged an appeal within the 21 day deadline;
  - .2 the member has failed to comply with a sanction within the stated deadline and the CIC has therefore recommended the removal of the member from membership;
  - .3 an Appeal Committee has upheld the recommendation of the Hearing Panel;the Board is asked to pass a formal resolution to exclude the member from membership of the Institute or of the IC, or both, as appropriate.
- .24 The member is informed of the outcome of the Appeal Committee and of any Board resolution. There is no further right of appeal.
- .25 The Institute Secretary has full authority to ensure that the decisions of the CIC, the Hearing Panel, the Appeal Committee and the Board are implemented in full.
- .26 The CIC, the Hearing Panel and any Appeal Committee may call upon legal or other appropriate advisers to become involved in any stage of their proceedings. This includes provision, in exceptional circumstances, to bring in additional member resource during an investigation or for a Hearing Panel
- .27 The CIC, the Hearing Panel and any Appeal Committee have discretion to regulate their own proceedings as they see fit save as otherwise expressly provided in this Regulation.